

Application No. 10/799,340  
Paper Dated: October 26, 2007  
In Reply to USPTO Correspondence of June 26, 2007  
Attorney Docket No. 0644-032407

### **REMARKS**

Claims 1-4, 6-9, 11-17 and 19-22 are pending in this application. Claims 5, 10 and 18 have been canceled. Claims 1, 11, 19, 20 and 22 are in independent form. Claim 19 has been indicated as allowable in the Office Action dated June 26, 2007. Claims 3, 4 and 16 were also indicated as being allowable, if rewritten in independent form including the limitations of any intervening claims. The allowable claims indicated in the Office Action dated June 26, 2007 were confirmed during a telephonic interview and e-mail communication with Examiner Kenny on August 1, 2007. New independent claim 22 includes the features of claims 11, 12 and 16.

Applicant's representative thanks Examiner Kenny for the personal interview granted August 29, 2007. During that interview, proposed amendments to claims 1 and 11 were discussed. These proposed amendments included the feature that the ledge has a sloped surface and the frame securable end slidably engages this sloped surface when the frame is rotated relative to the drain body. The Examiner could not discuss the allowability of this feature as it would require further search and/or consideration. Additionally, the incorporation of allowable subject matter of dependent claim 3 into independent claim 1 was discussed. Claim 3 is directed to the feature that the frame exposed end has a non-circular geometric configuration. As stated above, this feature was indicated as being allowable in the Office Action dated June 26, 2007 and confirmed during a telephonic interview and an e-mail communication with Examiner Kenny on August 1, 2007.

Claims 1 and 11 have been amended to recite the feature that the ledge has a sloped surface and the frame securable end slidably engages this sloped surface when the frame is rotated relative to the drain body, as discussed during the personal interview on August 29,

2007. Support for these amendments can be found in paragraph [0020] of the originally filed application and in Figures 2-3. New independent claim 20 includes the feature of allowable claim 3 that the frame exposed end has a non-circular geometric configuration. New dependent claim 21 corresponds with original claim 2 and recites that the frame securable end has a circular configuration. Claims 4 and 6 have been amended to depend from claim 21. Claim 18 has been canceled as it is a duplicate of claim 19. Claims 1 and 11, not claim 18, were amended in the response dated March 21, 2007 to incorporate the subject matter of original claim 5 that the drain body comprises a ledge and the frame securable end slidably engages this ledge when the frame is rotated relative to the drain body.

No new matter has been added.

#### **Arguments**

The present invention is directed to a floor drain and a method of installing a floor drain wherein the drain is adjustable to orient the position of the drain relative to its surroundings.

Claims 1, 2, 6-9, 11-14 and 17 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by United States Patent Number 2,749,999 to Schmid. It is the Examiner's position that Schmid meets each and every limitation of these claims. Claim 15 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Schmid. It is the Examiner's position that although Schmid is silent with respect to the floor surroundings, since the device of Schmid is used for floors, that walls would obviously be included in the area.

Applicant respectfully traverses the Examiner's rejection for the following reasons. Schmid fails to show the claimed feature of a drain body comprising a ledge having a sloped surface and wherein the frame securable end slidably engages the sloped surface of the ledge when the frame is rotated relative to the drain body. The Office Action equates the upper end 18 of the drain body 1 and the extension 10 of Schmid with the ledge 48 and the frame 52 of the present invention. Schmid fails to teach that this upper end 18 is sloped such that a frame securable end slidably engages this sloped surface when the frame is rotated relative to the drain body. The present application states in paragraphs [0020] and [0025] that the drain body frame receiving end 36 includes a ledge 48 with a sloped surface 50 for receiving a rotatable frame 52 and that a change in position of the frame 52 relative to the drain body 32 may be effected by sliding the frame lip 54 along the drain body sloped surface 50. Following installation of the surrounding floor, the frame and the grate may be oriented with the walls or tiles of the flooring in a desirable orientation. To re-orient the grate 30 for alignment with the surroundings, the fasteners 96 are loosened and the frame 52 is rotated about a Y axis relative to the drain body 32. The frame 52 may be slid along the circular or annular shape of the ledge 48. The advantage of the present invention over previous drains, such as taught by Schmid, is that alignment of the frame and grate with respect to the surroundings is achieved relatively easily. As discussed in paragraph [0005] of the specification, prior to the present invention, the complete drain including the frame and the drain body were rotated so as to align the grate with the walls of a building if plumbing line orientation so permits. These prior drains often required adjustment after attachment of the drain pipe to the drain body, however rotation of the drain body and frame was limited by the orientation of the drain pipe and the associated plumbing.

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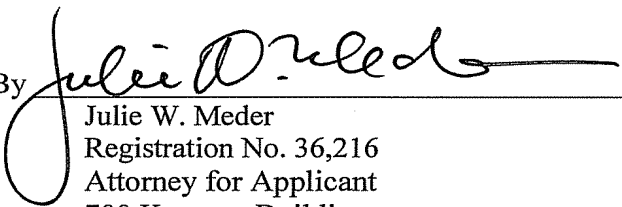
For the reasons set forth above, it is respectfully requested that the rejection of claims 1, 2, 6-9, 11-15 and 17 under 35 U.S.C. 102(b) and/or 35 U.S.C. 103(a) be withdrawn as Schmid fails to teach and/or render obvious each and every feature recited in the claims.

Independent claim 19 has been allowed. Dependent claim 3 was deemed allowable in the Office Action dated June 26, 2007 if rewritten in independent form including the base claim and any intervening claims. Accordingly, new independent claim 20, which includes the subject matter recited in original claim 3, is being submitted in this amendment. New dependent claim 21 includes the subject matter recited in original claim 2 that the frame securable end has a circular configuration. Claims 4 and 6 have been amended to depend from claim 21. Claim 22 is objected claim 16 written in independent form.

In view of the arguments and amendments to claims 1 and 11, it is respectfully requested that all claims remaining in the application, namely claims 1-4, 6-9, 11-17 and 19-22, be allowed and the application be passed to issue.

Respectfully submitted,

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